

**REPORT OF THE AUDIT OF THE
FLEMING COUNTY
CLERK**

**For The Year Ended
December 31, 2004**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE FLEMING COUNTY CLERK

**For The Year Ended
December 31, 2004**

The Auditor of Public Accounts has completed the Fleming County Clerk's audit for the year ended December 31, 2004. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees decreased by \$2,881 from the prior year, resulting in excess fees of \$87,465 as of December 31, 2004. Revenues decreased by \$77,646 from the prior year and expenditures decreased by \$74,765.

Report Comments:

- The Depository Institution Should Have Provided Additional Collateral Of \$98,454 To Protect Deposits
- The County Clerk's Office Lacks Adequate Segregation Of Duties

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Larry Foxworthy, Fleming County Judge/Executive
Honorable Marilyn Spencer, Fleming County Clerk
Members of the Fleming County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Fleming County, Kentucky, for the year ended December 31, 2004. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2004, in conformity with the regulatory basis of accounting.

In accordance with Government Auditing Standards, we have also issued our report dated August 19, 2005, on our consideration of the County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, grant agreements, and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Larry Foxworthy, Fleming County Judge/Executive
Honorable Marilyn Spencer, Fleming County Clerk
Members of the Fleming County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The Depository Institution Should Have Provided Additional Collateral Of \$98,454 To Protect Deposits
- The County Clerk's Office Lacks Adequate Segregation Of Duties

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Fleming County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

Audit fieldwork completed -
August 19, 2005

FLEMING COUNTY
MARILYN SPENCER, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2004

Revenues

State Fees For Services		\$	6,194
Fiscal Court			9,644
Licenses and Taxes:			
Motor Vehicle-			
Licenses and Transfers	\$	397,242	
Usage Tax		1,244,186	
Tangible Personal Property Tax		939,053	
Other-			
Fish and Game		12,618	
Marriage		4,244	
Deed Transfer Tax		27,740	
Delinquent Tax		54,631	2,679,714
Fees Collected for Services:			
Recordings-			
Deeds, Easements, and Contracts	\$	11,415	
Real Estate Mortgages		22,213	
Chattel Mortgages and Financing Statements		55,353	
Powers of Attorney		576	
All Other Recordings		15,077	
Charges for Other Services-			
Copywork		6,464	111,098
Other:			
Lien Releases	\$	192	
Miscellaneous		1,459	
Refunds		5,547	7,198
Interest Earned			637
Total Revenues		\$	2,814,485

The accompanying notes are an integral part of this financial statement.

FLEMING COUNTY
 MARILYN SPENCER, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2004
 (Continued)

Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$	298,935	
Usage Tax		1,206,248	
Tangible Personal Property Tax		321,310	
Licenses, Taxes, and Fees-			
Fish and Game		12,256	
Delinquent Tax		6,261	
Legal Process Tax		12,750	
Candidate Filing Fees		240	
Miscellaneous		1,230	
		<hr/>	\$ 1,859,230

Payments to Fiscal Court:

Tangible Personal Property Tax	\$	106,278	
Delinquent Tax		10,685	
Deed Transfer Tax		26,353	
		<hr/>	143,316

Payments to Other Districts:

Tangible Personal Property Tax	\$	472,829	
Delinquent Tax		23,605	
		<hr/>	496,434

Payments to Sheriff 1,716

Payments to County Attorney 7,426

Operating Expenditures:

Personnel Services-

Deputies' Salaries \$ 100,217

Contracted Services-

Advertising 84

Printing and Binding 110

Materials and Supplies-

Office Supplies 12,751

The accompanying notes are an integral part of this financial statement.

FLEMING COUNTY
 MARILYN SPENCER, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2004
 (Continued)

Expenditures (Continued)

Operating Expenditures: (Continued)

Other Charges-			
Conventions and Travel	\$	2,878	
Dues		450	
Postage		3,824	
Miscellaneous		2,491	
Refunds		7,526	
New and Repairs		10,322	\$ 140,653
Debt Service:			
Lease Purchases			<u>6,599</u>
Total Expenditures			<u>\$ 2,655,374</u>
Net Revenues			\$ 159,111
Less: Statutory Maximum			<u>64,953</u>
Excess Fees			\$ 94,158
Less: Expense Allowance	\$	3,600	
Training Incentive Benefit		<u>3,093</u>	<u>6,693</u>
Excess Fees Due County for 2004			\$ 87,465
Payments to Fiscal Court - January 18, 2005	\$	77,382	
August 16, 2005		<u>10,083</u>	<u>87,465</u>
Balance Due Fiscal Court at Completion of Audit			<u><u>\$ 0</u></u>

The accompanying notes are an integral part of this financial statement.

FLEMING COUNTY
MARILYN SPENCER, COUNTY CLERK
NOTES TO FINANCIAL STATEMENT

December 31, 2004

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31, that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2004 services
- Reimbursements for 2004 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2004

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

FLEMING COUNTY
MARILYN SPENCER, COUNTY CLERK
NOTES TO FINANCIAL STATEMENT
December 31, 2004
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 7.34 percent for the first six months and 8.48 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to KRS 66.480(1)(d) and KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. The County Clerk entered into a written agreement with the depository institution and met requirements (a), (b), and (c) stated above. However, as of April 2, 2004, the collateral and FDIC insurance together did not equal or exceed the amount on deposit, leaving \$98,454 of public funds uninsured and unsecured.

FLEMING COUNTY
 MARILYN SPENCER, COUNTY CLERK
 NOTES TO FINANCIAL STATEMENT
 December 31, 2004
 (Continued)

Note 3. Deposits (Continued)

The county official's deposits are categorized below to give an indication of the level of risk assumed by the county official as of April 2, 2004.

	<u>Bank Balance</u>
FDIC insured	\$ 100,000
Collateralized with securities held by pledging depository institution in the county official's name	150,000
Uncollateralized and uninsured	<u>98,454</u>
Total	<u>\$ 348,454</u>

Note 4. Leases

- A. The County Clerk has two lease agreements with Software Management for the CCLIX software service and hardware maintenance. The agreements require annual payments of \$2,700 and \$3,073 for 5 years to be completed on September 18, 2005. The County Clerk was in compliance with the terms of the agreement as of December 31, 2004.
- B. The County Clerk has two lease agreements with Xerox for copiers. The agreements require monthly payments of \$300 and \$285 for 60 months to be completed March 2008. The County Clerk was in compliance with the terms of the agreement as of December 31, 2004.

COMMENTS AND RECOMMENDATIONS

FLEMING COUNTY
MARILYN SPENCER, COUNTY CLERK
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2004

STATE LAWS AND REGULATIONS:

The Depository Institution Should Have Provided Additional Collateral Of \$98,454 To Protect Deposits

On April 2, 2004, \$98,454 of the County Clerk's deposits of public funds in depository institutions were uninsured and unsecured. According to KRS 66.480(1)(d) and KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with Federal Deposit Insurance Corporation insurance, equals or exceeds the amount of public funds on deposit at all times. We recommend that the County Clerk require the depository institution to pledge or provide collateral in an amount sufficient to secure deposits of public funds at all times.

County Clerk's Response:

I have a Collateral Security Agreement with the Peoples Bank and the bank should be taking care of my account. I feel the bank is not doing their job. This is out of the Clerk's control.

INTERNAL CONTROL - REPORTABLE CONDITION:

The County Clerk's Office Lacks Adequate Segregation Of Duties

The County Clerk's Office lacks a proper segregation of duties. There is a limited staff size, which prevents adequate division of responsibilities. The County Clerk has statutory authority to assume the role as custodian of monetary assets, as well as recorder of transactions and preparer of financial statements. To offset the lack of adequate segregation of duties, the County Clerk should implement the following compensating procedures:

- Someone should periodically check the bank reconciliation that the County Clerk prepares
- The County Clerk should sign all checks, or 2 signatures should be required on all checks, with one being the Clerk

County Clerk's Response:

None.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Larry Foxworthy, Fleming County Judge/Executive
Honorable Marilyn Spencer, Fleming County Clerk
Members of the Fleming County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Fleming County Clerk for the year ended December 31, 2004, and have issued our report thereon dated August 19, 2005. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Fleming County Clerk's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide an opinion on the internal control over financial reporting. However, we noted a certain matter involving the internal control over financial reporting and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. The reportable condition is described in the accompanying comments and recommendations.

- The County Clerk's Office Lacks Adequate Segregation Of Duties

A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe that the reportable condition described above is not a material weakness.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Fleming County Clerk's financial statement for the year ended December 31, 2004, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matter that is required to be reported under Government Auditing Standards and which is described in the accompanying comments and recommendations.

- The Depository Institution Should Have Provided Additional Collateral Of \$98,454 To Protect Deposits

This report is intended solely for the information and use of management and the Kentucky Governor's Office for Local Development and is not intended to be and should not be used by anyone other than the specified parties.

Respectfully submitted,



Crit Luallen
Auditor of Public Accounts

Audit fieldwork completed -
August 19, 2005

